United Nations CAT/OP/3/Rev.1

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
21 September 2015

Original: English
English, French and Spanish only

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Rules of procedure*

* In accordance with article 10 (2) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted its rules of procedure at its eighteenth session, held in Geneva from 12 to 16 November 2012, and amended them at its [number] session, held in Geneva from [dates]. The rules of procedure will be complemented by guidelines on visits to States parties.

GE.15-15982(E)

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Contents

		Page
I.	Sessions	4
	Rule	
	1. Dates of sessions	4
	2. Place of sessions	4
	3. Notification of sessions	4
	4. Provisional agenda and draft order of business	4
	5. Transmission of documentation	5
II.	Members	5
	Rule	
	6. Election of members	5
	7. Term of office	5
	8. Casual vacancies	5
	9. Solemn declaration	6
III.	Bureau	6
	Rule	
	10. Election of officers	6
	11. Conduct of elections to fill one elective position	6
	12. Conduct of elections to fill two or more elective positions	6
	13. Functions of the Bureau	7
	14. Powers of the Chair and Vice-Chairs	7
	15. Acting Chair	7
IV.	Secretariat	8
	Rule	
	16. Provision of a secretariat	8
	17. Duties of the secretariat	8
	18. Financial implication of proposals	8
V.	Communications	8
	Rule	
	19. Incoming and outgoing communications	8
	20. Meetings with States parties	9
VI.	Languages	9
	Rule	
	21. Official and working languages	9

VII. Confidentiality 9

Rule

22. In camera sessions 9

VIII. Documents 10

Rule

23. Confidentiality 10

24. Work of and decisions adopted by the Subcommittee 10

25. Annual report 10

IX. Conduct of business 10

Rule

26. Quorum 10

27. Adoption of decisions 10

28. Working groups and Rapporteurs 10

29. Rapporteur and focal points on reprisals 10

30. Independence of members 11

X . Cooperation with United Nations organs and mechanisms and other international, regional and national institutions or organizations 11

Rule

31. Consultation with other bodies 11

XI. National preventive mechanisms 12

Rule

32. Relationship with national preventive mechanisms 12

XII. Interpretation 12

Rule

33. Interpretation of the rules of procedure 12

XIII. Amendment of the present rules 12

Rule

34. Suspension 12

35. Amendments 12

36. Additions 13

I. Sessions

Rule 1
Dates of sessions

1. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment shall convene regular sessions at dates decided by the Subcommittee, in consultation with the Secretary-General, taking into account the calendar of conferences approved by the General Assembly.

2. The Subcommittee shall set the dates of future regular sessions in advance, on an ongoing basis, in consultation with the Secretary-General. Amendments to the dates set for future regular sessions shall be possible only after consultation with members at least six months prior to the set date.

3. The Subcommittee and the Committee against Torture shall hold at least one session a year simultaneously, in accordance with article 10 (3) of the Optional Protocol.

4. In addition to regular sessions, special sessions shall be convened at dates agreed by the Subcommittee, in consultation with the Secretary-General.

Rule 2
Place of sessions

Sessions of the Subcommittee shall normally be held at the United Nations Office at Geneva. Another place for a session may be designated by the Subcommittee, in consultation with the Secretary-General, taking into account the calendar of conferences approved by the General Assembly and rule 18 of the present rules of procedure.

Rule 3
Notification of sessions

The Secretary-General shall notify the members of the Subcommittee of the dates, duration and place of each session, as early as possible, but no later than two months prior to the beginning of a session. Such dates shall be in accordance with those agreed in advance by the Subcommittee (see rule 1).

Rule 4
Provisional agenda and draft order of business

1. The provisional agenda and the draft order of business for each session shall be prepared in the working languages of the Subcommittee by the secretariat of the Subcommittee, in consultation with the Bureau, no later than one month prior to the beginning of the session. They shall contain the issues decided on for discussion by the Subcommittee at its previous session, as well as other issues proposed by the Chair, the Bureau or the secretariat. They shall be transmitted to the members of the Subcommittee at least two weeks prior to the opening of the session

2. The first item on the provisional agenda and draft order of business of any session shall be the amendments to and the adoption of the agenda and order of business, except for the solemn declaration by new members, under rule 9, and the election of officers, under rule 10, when necessary.

3. During a session, the Subcommittee may revise the agenda and order of business in the light of new needs.

Rule 5
Transmission of documentation

The secretariat shall transmit documents relating to the session, other than the provisional agenda and draft order of business, to the members of the Subcommittee, in the working languages of the Subcommittee, as early as possible.

II. Members

Rule 6
Election of members

1. Members of the Subcommittee shall be the 25 experts elected in accordance with article 5 of the Optional Protocol.

2. Members shall be eligible for re-election once, if renominated.

3. Members of the Subcommittee shall serve in their individual capacity and may not be represented by alternates.

Rule 7
Term of office

1. The term of office of the members of the Subcommittee shall begin on 1 January of the year following the date of their election at the meeting of the States parties. The term of office shall expire on 31 December four years later, except for members chosen by lot to serve for two years, whose term shall expire on 31 December two years after their election.

2. In accordance with article 8 of the Optional Protocol, the term of a member appointed to fill a casual vacancy shall begin on the date that the appointment is approved and shall end on the date of expiration of the term of office of the member who is being replaced.

Rule 8
Casual vacancies

1. In accordance with article 8 of the Optional Protocol, in the event of the death or resignation of a member of the Subcommittee, or if, for any reason a member can no longer perform her or his duties, the Chair shall immediately notify the Secretary-General, who shall declare the seat vacant from the date of death or the date on which the resignation or notification takes effect and inform the State party that nominated the member. The State party shall nominate, within two months, another eligible candidate, subject to the approval of the majority of States parties. Approval shall be considered granted unless half or more of the States parties respond negatively within six weeks of having been informed of the proposed nominee.

2. If a member of the Subcommittee is consistently unable to carry out his or her duties for any reason other than absence of a temporary nature, said member shall resign. Written notification of the resignation shall be submitted to the Subcommittee and the Secretary-General. The Secretary-General shall declare the seat vacant and inform the State party that nominated the member so that action may be taken in accordance with article 8 of the Optional Protocol.

3. The Secretary-General shall inform the States parties of the name of the member filling the casual vacancy as soon as possible after approval.

4. Where approval of a replacement under paragraph 1 of this rule is declined, the State party that nominated the member shall be invited to nominate another eligible candidate who meets the requirements of article 5 of the Optional Protocol.

Rule 9
Solemn declaration

Before assuming duties, each member of the Subcommittee shall make the following solemn declaration at the first meeting that he or she attends following election:

> I solemnly declare that I will perform my duties and exercise my powers as a member of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment impartially, independently conscientiously, efficiently and in accordance with the rules, guidelines and operating procedures that it has established.

III. Bureau

Rule 10
Election of officers

1. The Subcommittee shall elect from among its members a Chair and four Vice-Chairs, who shall constitute the Bureau of the Subcommittee. One of the Vice-Chairs will act as Rapporteur.

2. The Subcommittee shall first proceed with the election of the Chair, then with the election of the four Vice-Chairs.

3. Elections shall be conducted by secret ballot.

4. Members of the Bureau shall be elected for a term of two years, and shall be eligible for re-election.

5. Three members of the Bureau shall constitute a quorum.

Rule 11
Conduct of elections to fill one elective position

1. Where there is only one candidate for an elective position, the Committee may decide to elect that person by acclamation.

2. Where there are two or more candidates for an elective position or where the Subcommittee decides to proceed with a ballot, the candidate who obtains an absolute majority of votes shall be elected.

3. If no single candidate receives an absolute majority of votes, the members of the Subcommittee shall endeavour to reach a consensus before holding a second ballot.

4. After a second inconclusive ballot, a third ballot, restricted to the two candidates who obtained the largest number of votes in the previous ballot, shall be held. The candidate obtaining the largest number of votes shall be elected.

Rule 12
Conduct of elections to fill two or more elective positions

1. When two or more elective positions are to be filled at one time and the number of candidates is the same as the number of positions to be filled, the Committee may decide to elect those persons by acclamation.

2. When two or more elective positions are to be filled at one time and the number of candidates exceeds the number of positions to be filled, the candidates who obtain an absolute majority in the first ballot shall be elected.

3. If the number of candidates who obtain an absolute majority is smaller than the number of positions to be filled, additional ballots shall be held to fill the remaining positions. In such cases, the ballots shall be restricted to the candidates who obtained the largest number of votes in the previous ballot; the number of those candidates should not be more than double the number of positions remaining to be filled. Candidates who obtain an absolute majority in the additional ballots shall be elected.

4. If all the positions are not be filled in the second or third ballot, candidates who obtain the largest number of votes in the third ballot shall be elected to the remaining positions.

Rule 13
Functions of the Bureau

1. The Bureau shall direct the work of the Subcommittee and shall perform all other functions conferred upon it by the present rules of procedure and the decisions of the Subcommittee. In particular, when the Subcommittee is not in session, the Bureau may take decisions on urgent or delegated matters on behalf of the Subcommittee. The members of the Subcommittee shall be consulted on such decisions whenever time and circumstances permit and each such decision shall be communicated to the members of the Subcommittee as soon as possible, taking due account of the requirement for confidentiality. The Bureau shall report to the Subcommittee at each session on any decisions or actions of an urgent or delegated nature taken on behalf of the Subcommittee since the previous session.

2. The Bureau shall meet in regular sessions as required, and in special sessions, as necessary, to fulfil its obligations and the mandate of the Subcommittee.

Rule 14
Powers of the Chair and Vice-Chairs

1. The Chair shall exercise his or her functions under the authority of the Subcommittee.

2. In accordance with the present rules of procedure, the Chair shall ensure the orderly conduct of the meetings of the Subcommittee, including observance of these rules.

3. The Chair shall represent the Subcommittee at United Nations and other meetings. If the Chair is unable to represent the Subcommittee at any meetings he or she may designate one of the Vice-Chairs to represent the Subcommittee. If no Vice-Chair is available, the Chair may, with the permission of the Subcommittee, designate a member of the Subcommittee to attend the meeting on behalf of the Subcommittee.

Rule 15
Acting Chair

1. If, during a session, the Chair is unable to be present at a meeting or any part thereof, he or she shall designate a Vice-Chair to act in his or her place.

2. If the Chair and Vice-Chairs are simultaneously unable to carry out their duties, or if none has been elected, the Subcommittee shall entrust such duties to any member of the Subcommittee until such time as the Chair or Vice-Chair assumes his or her functions or is elected. The secretariat may, if necessary and in consultation with the Subcommittee, convene a meeting of the Subcommittee for that purpose.

3. The member of the Subcommittee acting as Chair shall have the same powers and duties as the Chair.

IV. Secretariat

Rule 16
Provision of a secretariat

In accordance with article 25 (2) of the Optional Protocol, the Secretary-General shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee. As such, the Subcommittee shall be provided with a dedicated secretariat, including a secretary and staff with the capacity to engage in the work of the Subcommittee.

Rule 17
Duties of the secretariat

1. The secretariat shall be responsible for all the necessary arrangements for the sessions of the Subcommittee.

2. The secretariat staff shall attend all the sessions of the Subcommittee and may make oral or written statements at those sessions.

3. The secretariat shall prepare and submit to the Subcommittee all working documents in advance of the sessions so as to enable the Subcommittee to address all the items on its draft agenda and to carry out its work effectively. During the sessions, the secretariat shall provide the Subcommittee with all the information that it needs to fulfil its mandate effectively.

4. The secretariat shall respond in a timely manner to requests for information made by the Bureau and shall provide all draft correspondence and documents on request.

Rule 18
Financial implications of proposals

1. The expenditure incurred by the Subcommittee in the implementation of the Optional Protocol shall be borne by the United Nations.

2. Before the Subcommittee approves any proposal involving expenditure in excess of that already approved by the General Assembl, the secretariat shall prepare and circulate to the members of the Subcommittee, as early as possible, an estimate of the cost involved in the proposal, indicating the additional expenditure. It shall be the duty of the Chair to draw the attention of members to this estimate and the additional expenditure involved, prior to the adoption of a decision on the proposal.

V. Communications

Rule 19
Incoming and outgoing communications

1. The secretariat shall bring to the attention of the Subcommittee all communications received that contain information submitted for consideration by the Subcommittee.

2. Communications received by individual members of the Subcommittee which relate to the mandate of the Subcommittee shall be forwarded to the secretariat.

3. The secretariat shall keep a record of all communications received and shall, where appropriate, send an acknowledgement of receipt to the authors of such communications.

4. All correspondence shall be made available to the members of the Subcommittee on request.

5. The secretariat shall be responsible for informing the Subcommittee of any issues brought before it for consideration or any other developments that may be of relevance to the Subcommittee. The secretariat shall transmit to the Subcommittee information on all correspondence and other communications addressed to it or relevant to its mandate.

Rule 20
Meetings with States parties

The secretariat shall be responsible for informing the Subcommittee in advance of all meetings with States parties at which the Subcommittee will be the subject of discussion. The secretariat shall consult with the Subcommittee in advance about input concerning the Subcommittee at such meetings. The secretariat shall also ensure that the Subcommittee is represented at such meetings, either in person or by contributing to and agreeing on information to be provided about the Subcommittee.

VI. Languages

Rule 21
Official and working languages

1. Arabic, Chinese, English, French, Russian and Spanish shall be the official languages of the Subcommittee. Statements made in an official language shall be interpreted into the other official languages.

2. English, French and Spanish shall be the working languages of the Subcommittee. The working languages of the Subcommittee may be changed by decision. All formal decisions and official documents of the Subcommittee shall be issued in the working languages.

VII. Confidentiality

Rule 22
In camera sessions

1. The meetings of the Subcommittee shall be held in camera. Its deliberations shall remain confidential.

2. The Subcommittee may hear any person whom it considers to be in a position to assist it in the performance of its functions under the Optional Protocol. Such persons shall attend a meeting by invitation of the Subcommittee only, in consultation with the secretariat, and shall be bound by strict confidentiality.

3. The Subcommittee may decide on an ad hoc basis that a meeting shall be public.

VIII. Documents

Rule 23
Confidentiality

All documentation and information of the Subcommittee shall be kept strictly confidential, unless the Subcommittee decides otherwise in relation to a particular document.

Rule 24
Work of and decisions adopted by the Subcommittee

1. A report containing a summary of the work of and the decisions adopted by the Subcommittee at each session shall be prepared by the secretariat, in consultation with the Bureau, for adoption by the Subcommittee on the last day of the respective session.

2. The summary records of each session of the Subcommittee shall be made available to its members on request.

Rule 25
Annual report

In accordance with article 16 (3) of the Optional Protocol, the Subcommittee shall prepare an annual report on its activities for presentation to the Committee against Torture. This annual report shall be made available as a public document.

IX. Conduct of business

Rule 26
Quorum

Fourteen members of the Subcommittee shall constitute a quorum.

Rule 27
Adoption of decisions

1. The Subcommittee shall endeavour to reach all of its decisions by consensus. If a consensus cannot be reached, decisions of the Subcommittee shall be put to a vote and adopted on the basis of a simple majority of the members present and voting.

2. Each member of the Subcommittee shall have one vote.

3. Decisions may be voted on by e-mail in accordance with established procedures.

Rule 28
Working groups and Rapporteurs

The Subcommittee may appoint Rapporteurs and set up ad hoc working groups comprising a limited number of its members. The terms of reference of such Rapporteurs and working groups shall be defined by the Subcommittee.

Rule 29
Rapporteur and focal points on reprisals

1. In addition to appointing a focal point on reprisals for each visit that it undertakes, the Subcommittee shall appoint a Rapporteur on reprisals.

2. The terms of reference of the Rapporteur on reprisals shall be defined by the Subcommittee. They shall include guidelines for overseeing the implementation of the policy on reprisals (see CAT/OP/6), coordinating the Subcommittee's activities relating to reprisals and liaising with relevant national, regional and international bodies.

Rule 30
Independence of members

1. The members of the Subcommittee shall serve in their personal capacity and shall not only act independently and impartially, but also transparently, so as to be seen to be so by a reasonable observer. To that end, the members of the Subcommittee shall conduct themselves in accordance with the Guidelines on the independence and impartiality of members of the human rights treaty bodies ("the Addis Ababa guidelines"), in particular:

(a) No member of the Subcommittee shall participate in activities that may imply, or may be seen to imply, a conflict of interest with his or her capacity as an independent and impartial member of the Subcommittee;

(b) Members of the Subcommittee shall avoid any action that might give the impression that a State is receiving more or less favourable treatment than that accorded to other States;

(c) Members of the Subcommittee who hold multiple nationalities shall, on their own initiative, inform the Chair of the Subcommittee and its secretariat thereof.

2. No member of the Subcommittee shall participate in the conduct of a visit or be involved in the consideration of the report on the visit to the State party under the nationality of which he or she was elected or which nominated him or her or of which he or she holds the nationality.

3. No member of the Subcommittee shall participate in the preparation of or the follow-up to a country visit or inquiry or in the consideration of ensuing reports, if a real or perceived conflict of interest is present.

4. If for any reason a member of the Subcommittee considers that he or she is in a situation involving a potential conflict of interest, he or she shall promptly inform the Chair of the Subcommittee, who shall advise on the potential conflict of interest, taking into account the Addis Ababa guidelines. Ultimately, the Subcommittee as a whole shall take all measures necessary to safeguard the requirements of independence and impartiality of its members.

X. Cooperation with United Nations organs and mechanisms and other international, regional and national institutions or organizations

Rule 31
Consultation with other bodies

1. The Subcommittee may invite relevant bodies to submit or may receive for consideration information, documentation and written statements on matters covered by the Optional Protocol that fall within the scope of its activities.

2. In accordance with article 31 of the Optional Protocol, the Subcommittee may consult with bodies established under regional conventions, with a view to cooperating with them and avoiding duplication in effectively promoting the objectives of the Optional Protocol.

XI. National preventive mechanisms

Rule 32
Relationship with national preventive mechanisms

1. The Subcommittee shall advise and assist States parties, when necessary, in the establishment of national preventive mechanisms. It shall maintain direct and, if necessary, confidential contact with such mechanisms, including the right to receive information from and meet with them, in accordance with articles 11 and 20 (f) of the Optional Protocol.

2. The Subcommittee shall offer to provide training and technical assistance to national preventive mechanisms with a view to strengthening their capacity.

3. The Subcommittee shall advise and assist national preventive mechanisms in the evaluation of their needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment.

4. The Subcommittee shall make recommendations and observations to States parties with a view to strengthening the capacity and the mandate of national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment of persons deprived of their liberty.

5. In its relations with national preventive mechanisms, the Subcommittee shall give due consideration to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

6. The Subcommittee has adopted a separate set of guidelines on national preventive mechanisms (see CAT/OP/12/5).

XII. Interpretation

Rule 33
Interpretation of the rules of procedure

For the purpose of interpreting the present rules, the headings, which have been inserted for reference purposes only, shall be disregarded.

XIII. Amendment of the present rules

Rule 34
Suspension

Any of the present rules may be suspended by decision of the Subcommittee, provided such suspension is not inconsistent with the provisions of the Optional Protocol.

Rule 35
Amendments

The present rules may be amended by decision of the Subcommittee, at least 24 hours after the proposal for the amendment has been circulated, provided that the amendment is not inconsistent with the provisions of the Optional Protocol.

Rule 36
Additions

The Subcommittee may decide to formulate additional rules at any time. An additional rule may be adopted by decision of the Subcommittee, at least 24 hours after the proposal for the additional rule has been circulated, provided that the additional rule is not inconsistent with the provisions of the Optional Protocol.